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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,094	10/17/2003	Daniel Klees	210-031	9102

7590 03/14/2007
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EXAMINER

RAEVIS, ROBERT R

ART UNIT	PAPER NUMBER
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2856

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/687,094

Applicant(s)

KLEES ET AL.

Examiner

Robert R. Raevis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 9, "each flow meter" (first occurrence, line 3 from last) lacks antecedent basis. (Please note that "flow meters" (line 2) does not provide antecedent basis, as the preamble is merely a statement of intended use, as highlighted by the fact that the two calibration carts of the preamble do not relate back to the "calibration carts" (line 2) of the preamble.) Also, it's noted that this claim is limited to include two flow meter calibration carts ("at least one flow meter calibration cart" (lines 4 and 5)), but the "at least one" (lines 4, 5) is troublesome as there are expressly two. Applicant should consider replacing "one" (line 5) with -- a second --. Possibly, the claim is just repeating the same limitation, but this is not clear, as there is in fact support for multiple carts 7.

As to claim 10, is the "a flow meter calibration cart" (line 4) intended to limit this rig to include three (3) carts? Presently, claim 9 includes two carts, and claim 10 adds a third (i.e. "a flow meter calibration cart"). This is especially evident as (1) claim 10 refers to "*said* flow meter" (italics added) which clearly relates back to the "flow meter" (of claim 9), and (2) claim 11 provides for "said flow meter calibration cart" (lines 3-4) indicative that there is a difference between the "a flow meter calibration cart" (of line 4, claim 10) and the quoted passage of claim 11. (In addition, the "a flow meter calibration cart" may not be read as -- one of said flow meter calibration carts--, as there is literal support for a third cart 7 in the Figure.) As there is support for three calibration carts,

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Applicant may consider replacing “a flow” (last line) with – at least a third--. Also, please note that the “calibrated reference flow meter” (line 2) “in parallel to” (line 2) “a flow meter calibration cart” (last line) alternative is not connected to the apparatus of claim 9, and thus claim 10 is an aggregation of parts, and is not an apparatus.

As to claim 12, does “a flow meter” (line 3) refer back to “flow meter” (line 3 from last of claim 9), or is there a plurality of flow meters?

As to claim 14, should “or the flow meter calibration cart” (last line) read – or one of the flow meter calibration carts --? After all, base claim 9 expressly calls for two carts.

Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Adney et al.

As to claim 15, Adney et al teach a method to calculate a correction factor for a flowmeter FI (col. 11, lines 50-55; col. 12, lines 60-65) including; mounting the meter FI to a fluid system; sending “distilled water” (col. 11, line 36) (from either tank 1 or the “REFERENCE CONTAINER” (Figure 1)) through the meter; and directing the water from the meter to a drain (either container 2 or DRAIN” (Figure 1)).

As to Applicant’s **REMARKS**, consider the following:

As p. 6, 2nd full paragraph; Claim 15 is much, much broader than claim 9. Claim 9 includes at least two carts. The Adney reference clearly illustrates all of steps of the method of calibration of a flow meter.

Claims 9,11,12,14 are rejected under 35 U.S.C. 102(b) as being anticipated by Adney et al.

As to claims 9,11,12,13, Adney et al teach a source (either tank 1 or "REFERENCE CONTAINER" (Figure 1) of distilled water; flow meter FI and second meter 19/2 (weigh scale that measures flow) (col. 15, lines 55-65); and drain pipe (see 'DRAIN" in Figure 1) that is operatively connected to the meters to guide liquid from the flow meter FI to drain. As the elements 2/19 are a 2-liter flask (col. 13, lines 12-13) and scale, those two elements appear to be mobile, and thus may be deemed to be as much a cart as that claimed. ("Flow meter calibration carts are mobile units", as per p. 2, lines 16-19, of Applicant's specification, and thus support for anything that is mobile.)

As to claim 9, possibly the Applicant has mistakenly duplicated the claim limitation "cart". In that event, elements 2/19 provide for a cart, and the source and drain are operative connected to a flow meter F1, suggestive that this reference includes all limitations of the claim 9. In the alternative, as element 3 is a 5 gallon bucket (col. 13, line 14), that is suggestive that another item that is movable, and thus portable.

As to claim 11, scales 19 are calibrated for accuracy. Thus, elements 2/19 provides for a calibrated reference flow meter that is in series with a flow meter F1 under test, and the 5-gallon bucket provides for a movable, and thus mobile cart.

As to claim 12, note the meter F1 between element 2/19 (i.e. a flow meter, or even cart) and the DRAIN.

As to claim 14, note that the REFERENCE CONTAINER is between the tank 1 and the meter FI.

As to Applicant's **REMARKS**, consider the following:

As p. 6, 2nd full paragraph; after the 112(2) issues are addressed, Applicant is encouraged to point out what substantive limitation in the claim is not taught in Adney. Please to not refer to drawing which both not claimed, and are much narrower than the claim subject matter.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 571-272-

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2204. The examiner can normally be reached on Monday to Friday from 5:30am to 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams, can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'RAEVIS' with a stylized flourish at the end.

RAEVIS